

Don Thacker, WSB #15708
Chapter 7 Trustee
PO Box 118
La Center, WA 98629
360-841-7093

Hon. Mary Jo Heston
In Proceedings Under
Chapter 7
Hearing Date: June 5, 2018
Hearing Time: 9:00 am
Hearing Location: 500 W 12th St
2nd Floor
Vancouver WA
Response Date: May 29, 2018

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF WASHINGTON AT TACOMA

In re:

JOE, Paul,

Debtor(s).

Case No. 17-41216

NOTICE OF MOTION AND HEARING

PLEASE TAKE NOTICE that the Trustee's motion seeking
TRUSTEE'S MOTION TO ABANDON REAL PROPERTY

IS SET FOR HEARING as follows:

JUDGE: The Honorable Mary Jo Heston **TIME:** 9:00 AM

PLACE: 500 W 12th Street **DATE:** June 5, 2018
Vancouver, Washington

IF YOU OPPOSE the Motion, you must file your written response with the court clerk, serve two copies of the Judge's chambers and deliver copies on the undersigned **NOT LATER THAN the RESPONSE DATE, which is May 29, 2018.**

IF NO RESPONSE IS TIMELY FILED AND SERVED, the Court may, in its discretion, GRANT THE MOTION PRIOR TO THE HEARING, WITHOUT FURTHER NOTICE, and strike the hearing.

DATED this 7 day of May, 2018.

/s/ Don Thacker

Don Thacker, WSB #15708
Trustee

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2 Chapter 7 Trustee
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7 IN THE UNITED STATES BANKRUPTCY COURT
8 FOR THE WESTERN DISTRICT OF WASHINGTON AT TACOMA

9 In re:

10 JOE, Paul,

11 Debtor.

)
) Case No. 17-41216
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)
)

**TRUSTEE'S MOTION TO ABANDON
REAL PROPERTY**

12 The Chapter 7 Trustee requests an order approving the abandonment of real property
13 located at 58209 Columbia River Highway in Saint Helens, Oregon. The Trustee represents to the
14 Court as follows:

15 1. This case was originally filed on March 30, 2017, and was converted to a Chapter 7
16 on April 6, 2018. Don Thacker is the duly appointed interim Chapter 7 Trustee.

17 2. The Debtor listed as an asset real property located at 58209 Columbia River
18 Highway, Saint Helens, Oregon. On Schedule A, the Debtor asserts the real property has a value
19 of \$2,500,000.00. Schedule D reveals \$1,361,583.30 of debt secured by the real property.

20 3. On Schedule G, the Debtor reveals he leases the real property to BNJ Unlimited
21 LLC ("BNJ"). The Trustee believes the Debtor's daughter is the principal in BNJ. BNJ operates a
22 restaurant/bar on the real property. The Trustee understands that the rent is delinquent. No rent
23 was paid to the Trustee since this case was converted to a Chapter 7.

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TRUSTEE'S MOTION TO ABANDON REAL PROPERTY
(58209 Columbia River Hwy, Saint Helens, OR) - 1

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4. The Trustee asked the Debtor to provide proof of liability insurance, with the Chapter 7 estate as a named insured on the policy. The Debtor has failed to provide such proof of insurance to the Trustee

5. The Trustee has received updates on the unpaid principal balance of the debt secured by the residence. It is as follows:

Delinquent real property tax	\$ 35,000.00
Hampton Heights LLC	\$ 1,600,000.00
City of St. Helens	<u>\$ 160,000.00</u>
Total	\$ 1,795,000.00

6. During the pendency of the Chapter 11 case, the Debtor hired realtor Mark Piscitelli of Kidder Mathews as realtor to explore selling all or part of the real property.

7. Piscitelli informed the Trustee recently that the entirety of the real property has an estimated fair market value of no more than \$1,752,419.00. That figure is less than the debt owed against the real property. In order to sell the real property in 30-90 days, Piscitelli suggests a list price of only \$1,362,992.00.

8. Finally, the Trustee's accountant has counseled the Trustee that sale of the property could trigger tax liability for the estate.

9. Clearly there is no equity in the real property for the Chapter 7 estate. Moreover, operating a restaurant and bar without being adequately insured exposes the Chapter 7 estate to significant dramshop liability.

10. Attached hereto as Exhibit "1" is a proposed Order.

WHEREFORE, the Trustee requests an order abandoning the real property for the reasons set forth above.

DATED this 7th day of May, 2018.

/s/ Don Thacker
Don Thacker, WSB #15708
Trustee

TRUSTEE'S MOTION TO ABANDON REAL PROPERTY
(58209 Columbia River Hwy, Saint Helens, OR) - 2

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IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF WASHINGTON AT TACOMA

In re:)	Case No. 17-41216
)	
JOE, Paul,)	ORDER ABANDONING REAL
)	PROPERTY
Debtor(s).)	(58209 Columbia River Hwy, Saint Helens, OR)
)	
)	

THIS MATTER having come before the Court upon the Trustee's Motion for an Order approving the abandonment of real property located at 58209 Columbia River Highway in Saint Helens, Oregon; it appearing to the Court that the Trustee filed a Motion to Abandon Real Property, and notice thereof, was sent to all creditors; it appearing to the Court that neither the Trustee nor the Court have received any objections to the proposed motion; it appearing to the Court that the motion is in the best interest of creditors and the Debtors; the Court being fully advised and good cause appearing therefore;

IT IS HEREBY ORDERED that the Trustee's Motion to Abandon Real Property is approved.

/// END OF ORDER ///

Presented by:

/s/ Don Thacker
Don Thacker, WSB #15708
Chapter 7 Trustee

ORDER ABONDONING REAL PROPERTY
(58209 Columbia River Hwy, Saint Helens, OR) - 1

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